

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<b>Kimberly Ford Jackman,</b> Petitioner-Appellant,  <b>v.</b>  <b>Polk County Board of Review,</b> Respondent-Appellee.	<b>ORDER</b>  <b>Docket No. 12-77-0408</b> <b>Parcel No. 180/00630-002-000</b>
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On May 3, 2013, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Kimberly Ford Jackman was self-represented. Jackman requested a written consideration. Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Polk County Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

***Findings of Fact***

Kimberly Ford Jackman is the owner of a residential, single-family property located at 1844 NW 70th Place, Ankeny, Iowa. The property is a one-story dwelling built in 1978 with 1432 square feet of total living area. It has a 1388 square-foot basement, which includes a built-in, two-stall garage. The home also has a 204 square-foot deck. The dwelling is listed as being average quality (4+10) grade and in above-normal condition. The site is 0.474 acres.

Jackman protested to the Board of Review regarding the 2012 assessment of \$176,700, which was allocated as follows: \$37,600 in land value and \$139,100 in improvement value. The January 1, 2012, assessment did not change from the prior year. Her claim was based on the following grounds:

1) the assessment was not equitable as compared with assessments of other like property under Iowa

Code section 441.37(1)(a)(1); and 2) that there was a change in value under sections 441.37(1)(b) and 441.35(2). The Board of Review granted the protest, in part, by lowering the assessment to \$169,400, allocated as \$37,600 in land value and \$131,800 in improvement value. The claim of equity is not available because Jackman's assessment did not change from 2011 to 2012. Iowa Code § 441.37(1)(a).

Jackman then appealed to this Board and claimed the property is over-assessed. This claim was not pled before the Board of Review and it is not available in an interim year appeal. For these reasons it is not properly in front of this Board. *Id.*; § 441.37A(1)(b). Because the 2012 assessment did not change from the 2011 assessment, the only available ground for appeal is change in value since the last assessment. § 441.37(1); § 441.35(2). Jackman contends the correct value is \$155,000, representing \$37,600 in land value and \$117,400 in improvement value.

Jackman provided three comparable properties for an equity comparison. Because equity is not a claim properly before this Board, we will not reach the issue. However, two of the properties sold, one in December 2011 and one in March 2012. The sale prices were \$138,000 and \$140,000 respectively. No adjustments were made to the sales to account for differences between the properties and the subject property, and no value conclusion was established for the January 1, 2012, assessment. Additionally, Jackman did not provide any evidence of the property's fair market value as of January 1, 2011. Both values are required for a claim of change in value since the last assessment. For these reasons, we give this evidence no consideration.

The Board of Review submitted five properties it considered comparable and made what appears to be cost-based adjustments for differences between them and the subject property. These properties sold in 2010 and 2011 and the sales prices ranged from \$138,000 to \$184,500. Adjusted values ranged from \$141,692 to \$182,899; or \$84.64 to \$166.27 per-square foot. However, we hesitate to rely on this analysis as it is unexplained and because we question the methodology applied.

For instance, the subject property has a full basement, which includes a two-stall, built-in garage. The comparable properties all appear to have been adjusted for differences in the size of the full basement area (1388 square-feet); and also adjusted for lacking a built-in garage. Because this area is the same, this appears to be a “double-dip” adjustment for the same element. For this reason, we give this evidence limited consideration.

Ultimately, Jackman did not provide sufficient evidence of the subject property’s fair market value as of January 1, 2011, or January 1, 2012. Both values are necessary to establish a change in value since the last assessment.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

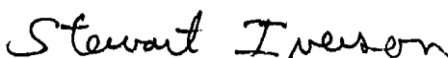
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value.

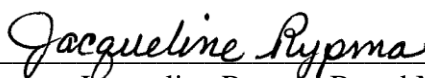
§441.21(1)(b). If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

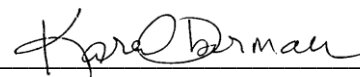
In a non-reassessment or “interim” year, when the property’s assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b) (2013); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co.*, 252 N.W.2d at 450. The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Jackman failed to submit evidence demonstrating the subject property’s fair market value as of January 1, 2011, and January 1, 2012. Both values are necessary to establish a change in value.

THE APPEAL BOARD ORDERS the assessment of Jackman’s property located at 1844 NW 70th Place, Ankeny, Iowa, of \$169,400, as of January 1, 2012, set by the Polk County Board of Review, is affirmed.

Dated this 31st day of May, 2013.

  
Stewart Iverson, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Member

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